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OCA #083303

ORDINANCE NO.49-010

AN ORDINANCE AMENDING SECTIONS 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.046; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215 AND 6.04.218 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANIMAL CONTROL AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 6.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.010 Definitions.

As used in this chapter:

(a) *Abandoned cat* means a cat which has returned to the feral state or which does not have a collar.

(b) *Adequate care* means normal care and prudent attention to the needs and welfare of an animal, including that care normally needed to maintain good health of the animal, including clean and dry bedding and resting surfaces, grooming, removal of manure, and:

1. *Adequate food* means wholesome foodstuffs suitable for the animal provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health of the animal considering its age and condition; and

2. *Adequate health care* means the provision to an animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal to rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death; and

3. *Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the animal, considering the condition and age of the animal which provides

access to shade from direct sunlight and regress from exposure to inclement weather conditions;
and

4. *Adequate water* means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the condition of the animal.

(c) *Adult animal* means an animal that has reached sexual maturity. For the purposes of this title, unless otherwise specified, an animal will be considered to be an adult at five (5) months of age.

(d) *Animals* means all vertebrate and invertebrate animals such as, but not limited to, dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, or birds that have been tamed, domesticated or captivated.

Such term does not include exotic or dangerous wild animals, as defined by Chapter 6.08.

Animal Control Officer means any person employed by, contracted with or appointed by the City of Wichita, or any designee of the Chief of Police of the City of Wichita, for the purpose of aiding in the enforcement of this code.

(e) *Animal fighting paraphernalia* means equipment, animals, or commodities designed or capable of use for the purpose of training animals to attack other animals, as in dogfighting or cockfighting, including but not limited to: animal treadmills, drugs for healing animals such as anti-inflammatories, antibiotics or steroids, spurs, equipment used to threaten animals for the purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies. In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or person in control of the object concerning its use.
2. Prior convictions, if any, of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.
3. The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.
4. The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.
5. The existence of bloodstains or blood spatters on the object.
6. The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.
7. The existence and scope of legitimate uses for the object in the community.
8. Expert testimony concerning the object's use.
9. The proximity of the object, in time and space, to dogs showing evidence of wounds or scarring.

f. *Animal shelter* means the facility or facilities authorized to care for animals impounded or held under the authority of the ordinances of the City of Wichita or the State of Kansas.

g. *Attack* means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing, or circling a person.

h. *Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

- i. *Cat* means any of the small carnivorous mammal varieties of *Felis Catus* which are domesticated. Such term shall not include hybrid breeds of cats which have been bred to a wild animal.
- j. *Cattery* means any premises where there is being maintained or harbored a total of five or more cats or more than two unsprayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.
- k. *City Treasurer* means the duly appointed treasurer of the city or his/her authorized representative.
- l. *Commercial animal establishment* means any pet shop, animal day care, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer or other business which keeps or maintains animals in stock for retail or wholesale trade or sale.
- m. *Dangerous dog* means:
1. Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
 2. Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal. This shall not apply if the victim was committing a willful criminal trespass on the property where the dog was harbored at the time of the attack or bite; or
 3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
 4. Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful criminal trespass at the time.
 5. Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.
- n. *Defecate* means to excrete waste matter from the bowels.
- o. *Dog* means any animal which is of the species *Canis Familiaris*. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.
- p. *Dog breeder* means a person who raises or produces dogs or puppies for sale or profit. It is presumed that a person who advertises the sale of dogs or puppies or a person who owns two or more unaltered female dogs is a dog breeder. Such term shall include persons who are licensed by the State of Kansas as an Animal Dealer, Retailer Breeder, Animal Breeder, Hobby Breeder or Hobby Kennel. Such term shall include a person who owns one or two unaltered pit bulls.
- q. *Animal day care* means a commercial establishment that takes temporary possession of an animal, at the request of an owner, to provide safety, comfort and/or socialization of the animal.
- r. *Domestic animals* means all animals that have been domesticated, such as, but not limited to, dogs, cats, cattle, horses, swine, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons or other fowl.
- s. *Domestic animal structure* means all pens, houses or structures where domestic animals are confined, such as, but not limited to: hutches, cotes, lofts, kennels, dog runs, warrens, feed lots, barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding the property.
- t. *Exotic animal* means those animals not normally occurring in North America and animals of any species the majority of whose populations are wild.

- u. *Ferret* means a domesticated, small, elongated carnivorous mammal which belongs to the Mustelidae Family (*Mustela putorius furo*).
- v. *Foster care, group home or rescue* means a person or organization, whether for profit or non-profit, which provides temporary care for animals from a licensed animal shelter at a private residence. Temporary care is a period of time not to exceed six (6) months. Such term shall include foster, group and rescue homes operated under the auspices of rescue organizations licensed by the Kansas Animal Health Department.
- w. *Fowl* means any domesticated or wild bird, including but not limited to: chickens, hens, ducks, geese, pheasants, turkeys, doves, pigeons, parrots, parakeet and exotic birds.
- x. *Garbage* means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.
- y. *Groomer* means a person or establishment which provides animal grooming services.
- z. *Health Officer* means the Director of the City of Wichita Department of Environmental Services or authorized representative.
- (aa) *Inhumane treatment* means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting; beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.
- (bb) *Kennel* means any premises where there is being maintained a total of five or more adult dogs owned by the property resident.
- (cc) *Livestock* means any cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mule or other animal of similar or larger size.
- (dd) *Microchip* means a passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.
- (ee) *Neighbor* means any person residing within two hundred feet (200') from the outermost property line of the property where a domestic animal is owned, kept or harbored.
- (ff) *Owner, keeper or harbinger* means any person who possesses, harbors, keeps, feeds, shelters, maintains, offers refuge or asylum to any animal, or who professes to keeping, owning or harboring of such animal. In addition, any person who signs a receipt as owner, keeper or harbinger for the return of an animal from any shelter or animal holding facility, shall be presumed to be the owner, keeper or harbinger of the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harbinger of animals owned, kept or harbored upon their premises by minor children who are less than eighteen (18) years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.
- (gg) *Person* means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.
- (hh) *Picket* means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.
- (ii) *Pit Bull dog* is defined to mean any and all of the following dogs:
1. The Staffordshire Bull Terrier breed of dogs;
 2. The American Staffordshire Terrier breed of dogs;
 3. The American Pit Bull Terrier breed of dogs;

4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

A dog which possesses five out of the following eight characteristics shall be considered to be a pit bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
2. Eyes are round to almond shaped, are low in the skull and set far apart.
3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.
4. Neck is heavy and muscular, attached to strong, muscular shoulders.
5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
6. Tail is medium length and set low, thick at the base, tapering to a point.
7. Hindquarters are well muscled, with hocks, set low on the legs.
8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

(jj) *Premises* means a lot, plot or parcel of land including structures located thereon.

(kk) *Public nuisance* means any repeated acts of an animal that irritates, perturbs or damages rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

1. Damage to public or private property including, but not limited to: breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;
2. Rips any trash bag or tips any solid waste collection container which spills or scatters trash, debris, refuse or waste.
3. Repeatedly defecates upon any public place or upon premises not owned or controlled by the animal's owner, keeper or harbinger, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.
4. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.
5. Causes a condition which endangers public health or safety.

(ll) *Ratites* means all creatures of the ratite family that are not indigenous to this state, including but not limited to, ostriches, emus and rheas.

(mm) *Refuse* means all putrescible and non-putrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, grass, wood, metals, salvage or inert materials produced or accumulated in connection with the maintenance of domestic animals.

(nn) *Retail* means any transaction where the animal is sold to the final consumer.

(oo) *Running at large* means any animal, with the exception of a cat, that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040(e)(14). For the purposes of this chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property. Further, a dog shall not be considered to be running at large when it is unleashed inside a dog park owned or operated by the City of Wichita.

(pp) *Sale or offer for sale* includes transfers by sale or exchange.

(qq) *Sanitary* means clean, free from waste and free from infectious influences.

(rr) *Secure enclosure* means a locked enclosure or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, a secure top attached to the sides which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by the Health Officer. Such enclosure shall have a concrete or wire floor to prevent the dog from digging out or escaping from the enclosure.

(ss) *Service animal* means any animal recognized as a qualified service animal pursuant to the Americans with Disability Act of 1990. A qualified service animal is defined as, but not limited: to a dog which has been specially selected, trained and tested to perform a variety of tasks for persons with disabilities. These tasks include, but are not limited to: pulling wheelchairs, lending balance support, picking up dropped objects or providing assistance in, or to avoid, a medical crisis or to otherwise mitigate the effects of a disability. The presence of a dog for comfort, protection or personal defense does not qualify a dog as being trained to mitigate an individual's disability and, therefore, does not qualify the dog as a service dog.

(tt) *Stockyard* means a public terminal stockyard posted by the packers and stockyards divisions of the United States Department of Agriculture.

(uu) *Unaltered* means an animal which has not been surgically sterilized.

(vv) *Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.

(ww) *Veterinarian hospitals* mean a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the State.

(xx) *Vicious propensity* means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation.

(yy) *Waste* or *wastes* means manure or the bodily discharge of all domestic animals, spilled feed or unconsumed feed and liquid cleaning wastes, including suspended solids resulting from cleaning operations.

(zz) *Wild animal* means any species that has established breeding populations currently within North America, which is self sufficient in the natural environment, and the majority of whose populations are not domesticated.

SECTION 2. Section 6.04.020 of the Code of the City of Wichita, Kansas is hereby

amended to read as follows:

Sec. 6.04.020. Responsibilities of the Health Officer Enforcement of this title.

- (a) The Health Officer Wichita Police Department and members of the City of Wichita's Animal Control and all designees of Chief of Police of the City of Wichita shall be responsible for the enforcement of this title and is hereby authorized to make investigations and to serve notices and orders as necessary for enforcement of the provisions of this title, to pick up animals on public or private property, and to arrange and pay for confinement of such animals at an animal shelter in accordance with K.S.A. 47-1701, et seq., and amendments thereto, and to operate an animal shelter to aid the department's animal control functions, including charging the owner of any animal confined for the care thereof, and to seek reimbursement from the owner of any animal confined, whether the confinement is at the animal shelter operated by the department or by a third party. Such authority shall include, subject to budgetary control, authorization for formalization of an agreement with such animal shelter.
- (b) The Health Officer Animal Control Officers and all members of the Wichita Police Department shall have the authority to sign complaints and serve notices to appear before the Municipal Court upon any person when the Health Officer Animal Control Officer or Police Officer has probable cause to believe such person has or is violating a section of this Code. Such officer shall have the authority to issue, suspend or revoke licenses and permits as provided for by this title.
- (c) In addition to fees provided for in this title, the Director of the Wichita Department of Environmental Services, Chief of Police of the City of Wichita or designee is authorized to establish a schedule of user or service fees and collect such fees for services performed, including but not limited to:
 - 1. Animal shelter boarding and animal redemption;
 - 2. Shelter services provided to other jurisdictions;
 - 3. Animal care and control items sold at the Wichita Animal Shelter;
 - 4. Adoption fees for the adoption of animals from the Wichita Animal Shelter.
 - 5. Research and copying of documents not subject to the Kansas Open Records Act requests;
 - 6. Inspection services provided to other jurisdictions.
 - 7. Enter into interlocal agreements with other jurisdictions to provide Animal Control services.
- (d) The Director of Environmental Services Chief of Police of the City of Wichita or designee is authorized to adjust fees during instances of moratoriums, special events or special adoption programs."

SECTION 3. Section 6.04.025 of the Code of the City of Wichita, Kansas is hereby

amended to read as follows:

Sec. 6.04.025. Trapping of abandoned cats by Health Officer.

- (a) Abandoned cats located within the corporate limits of the city are declared a nuisance and menace to the public health which is to be abated by the Health Officer. Wichita Police Department.

(b) A cat that has reverted to a feral state or has no collar is presumed to be an abandoned cat. Such cat may be confined by a person on whose property such cat strays for pick-up by the Health Officer City of Wichita's Animal Control, or be trapped by the health officer an Animal Control Officer.

(c) The Health Officer Animal Control Officers may utilize humane-type cage traps to apprehend any abandoned cat with such humane trap being placed by the health officer Animal Control Officer on public property or private property with the consent of the owner.

(d) The Health Officer shall Animal Control Officer shall transport cats that have been trapped, picked up, confined or relinquished to the animal shelter with such cat being impounded as provided by K.S.A. 47-1701 et seq., as amended, unless sooner redeemed by an owner upon payment of a service charge and boarding fee to the city. Identification information, if available on a trapped cat, shall be utilized by the Health Officer Animal Control Officer or animal shelter to inform such owner that his cat has been impounded.

SECTION 4. Section 6.04.035 of the Code of the City of Wichita, Kansas is hereby

amended to read as follows:

Sec. 6.04.035. Cruelty to animals.

(a) It is unlawful for any person to commit the crime of cruelty to animals. Cruelty to animals is:

1. Intentionally causing any physical injury, other than the following acts, described in K.S.A. 21-4310(a)(10) and amendments thereto: by intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
2. Recklessly causing physical injury to any animal;
3. Intentionally abandoning or leaving any animal in any place without making provisions for its proper care;
4. Having physical custody of any animal and intentionally failing to provide adequate care, such as food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal;
5. For any person, by any means, to make accessible to any animal, with the intent to cause harm, any substance which has in any manner been treated or prepared with a harmful or poisonous substance, except that this section shall not prohibit the use of poisonous substances for the control of vermin of significance to the public health.
6. Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the City, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department (911) of the location, and the police department will notify such agency as may be providing injury services;
7. For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A Municipal Court Judge may order a person convicted under this section to turn the animal involved over to the Environmental Services Department Animal Shelter. All such animals taken by the Environmental Services Department Animal Control may be destroyed humanely as soon

thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;

8. Intentionally using a wire, pole, stick, rope or any other object to cause any equine, bovine or swine to lose its balance or fall, for the purpose of sport or entertainment.

9. It is unlawful for any person to leave an animal in a standing or parked vehicle under conditions constituting an imminent threat to the safety of the animal. The Health Officer Animal Control Officer may remove and impound an animal left under what reasonably appears to be such conditions. Removal and impoundment of an animal shall not limit the Health Officer's Animal Control Officer's ability to pursue charges or animal cruelty in Municipal Court.

10. It is unlawful for any person to subject any animal to inhumane treatment, as defined by Section 6.04.010 of this Code.

(b) The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;

2. Bona fide experiments carried on by commonly recognized research facilities;

3. Rodeo practices as described in the Professional Rodeo Cowboys Association Rules Governing the Care and Treatment of Livestock in PRCA Sanctioned Rodeos;

4. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound.

5. With respect to livestock, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

6. The killing or injury of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, livestock or property;

7. An animal control officer Animal Control Officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

8. Laying an equine down for medical or identification purposes;

9. Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a and amendments thereto; or

10. Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, and amendments thereto.

(c) As used in this section,

1. *equine* means a horse, pony, mule, jenny, donkey, or hinny.

2. *bovine* means a cow, calf, bull or steer.

3. *swine* means a pig, shoat, piglet, boar, barrow, gilt or sow.

(d) Cruelty to animals as described in this section is a misdemeanor punishable by a fine or not more than \$2,500.00 and/or imprisonment of not more than 12 months, or any combination of such fine and imprisonment.

SECTION 5. Section 6.04.036 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.036. Cruelty complaint--Municipal court hearing.

(a) The Health Officer An Animal Control Officer or the representative of a duly incorporated humane society may, if a report has been made which shows evidence of cruelty or inhumane treatment of an animal against an individual before or after the individual has been convicted of such violation, sign an affidavit petitioning the Municipal Court Judge to immediately take custody and control of such animal if it appears to the Health Officer Animal Control Officer or the representative of the duly incorporated humane society that it would be in the best interest of such animal to have the Municipal Court seize such animal.

(b) The Municipal Court Judge, upon receiving such affidavit and petition, shall set the matter for hearing within five business days from the date that the petition and affidavit are filed. If it appears from the affidavit that there is an imminent threat to the life of the animal, then the Municipal Court may set the hearing as soon as practical. The Municipal Court shall direct notice of the violation be served on the owner or harbinger of such animal by serving such person with a summons to appear and a copy of the affidavit filed with the court. This summons and affidavit shall be served in the same manner as is required for serving a Notice to Appear under K.S.A. 12-4207.

(c) The Municipal Court Judge, after a hearing has been held, may order that an animal be seized and held in the animal shelter of the City of Wichita, or placed in the custody of a duly incorporated humane society if the following findings are made:

1. The person summoned to appear is the owner or harbinger of the animal in question;
2. That there is probable cause to believe that a violation of any provision of Section 6.04.035 has occurred or is occurring; and
3. Based upon that violation, it appears that it would be in the best interest of the animal, to remove that animal from the control and custody of the owner or harbinger.

(d) If the Municipal Court Judge orders that such animal shall be seized and brought into custody, then the Health Officer Animal Control Officer or a representative of a duly incorporated humane society shall take such animal into custody and shall inspect such animal, care for or treat such animal or place such animal under the care of a licensed veterinarian for treatment, boarding or other care. If the Health Officer Supervisor of Animal Control determines, based on information from his or her staff, an officer of a humane society, or a licensed veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, then such animal may be destroyed humanely as soon thereafter as is conveniently possible, subject to the right of appeal stated below in subsection (i). The City of Wichita shall not be responsible for any costs that are incurred by an incorporated humane society as to the care of an animal placed in the custody of a humane society or as to treatment of an animal under the custody of a humane society received from a licensed veterinarian.

(e) If the owner or harbinger of such an animal is convicted of violating any provision of Section 6.04.035 of this code and if the Municipal Court Judge finds that such animal would in the future be subjected to treatment or actions by the owner or harbinger which violates any provision of Section 6.04.035, such animal shall not be returned to or remain with such person. Such animal may be turned over to the Health Officer animal shelter, humane society or licensed veterinarian for sale or other disposition.

(f) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (d) pending prosecution of the owner or harbinger of such animal for cruelty to animals shall be assessed to the owner or harbinger as a cost of the case if the owner or harbinger is adjudicated guilty of such crime.

(g) If the Health Officer or an Animal Control Officer has taken possession of the animal, the Health Officer or Animal Control Officer may petition the Municipal Court to be allowed to place the animal for adoption or euthanize the animal after five (5) business days following notification to the owner or harbinger of such animal, unless the owner or harbinger files a renewable cash or performance bond with the Clerk of the Municipal Court where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for thirty (30) days. If the animal remains in the custody of the Health Officer or animal shelter for a period exceeding thirty days, after written notice to the owner or harbinger, the Health Officer or Supervisor of Animal Control or designee may request the Municipal Court Judge to increase the amount of the bond to cover the costs of care for the animal.

(h) If the owner or harbinger of such animal is adjudicated not guilty or if the Municipal Court Judge, after an adjudication of guilt is made, finds that such animal should be returned, such person may redeem such animal within seventy-two hours. If such animal is not redeemed within seventy-two hours, then the entity operating the animal shelter caring for the animal shall have ownership of such animal and shall determine the disposition of such animal. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the entity operating the animal shelter, and no part of such proceeds shall accrue to any individual.

(i) An order issued by the Municipal Court Judge under this section may be appealed to the district court pursuant to the provisions contained in K.S.A. 60-2101(d) and amendments thereto."

SECTION 6. Section 6.04.040 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.040. Control and protection of animals in general.

(a) Any owner, keeper or harbinger of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harbinger shall not be elements of this offense. The Health Officer or an Animal Control Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The Health Officer or Supervisor of Animal Control may return the animal to its rightful owner, keeper or harbinger upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the Health Officer or Supervisor of Animal Control to require confinement separate from other like animals in order to protect the health and well being of that animal, staff, the public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter. Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

1. Upon a first conviction, a fine of not less than \$50.00 nor more than \$1,000.00 shall be assessed.
2. Upon a second conviction a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.
3. Upon a third or subsequent conviction, a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.
 - (b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:
 1. Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and
 2. Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or
 3. The owner, keeper or harbinger may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the Health Officer Chief of Police or designee to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.
 4. For any dog required to be surgically sterilized, the Health Officer Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.
 - (c) Upon the second occurrence of any intact dog impounded by the Health Officer Animal Control for running at large, the owner, keeper or harbinger of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the Health Officer Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.
 - (d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.
 - (e) It is unlawful for any person to:
 1. Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for the Health Officer Animal Control Officers to kill squirrels, skunks, birds, or

other animals that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;

2. Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;

3. Own, maintain, or have in his or her possession animal fighting paraphernalia;

4. Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-4315 or convicted of cruelty to animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-4310 and amendments thereto.

5. Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area. To effect legal relief, persons so affected directly may sign a complaint at the Department of Environmental Services Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

6. Allow any unsprayed female dog in season to be in an area where there is access by an unconfined male dog;

7. Allow an unconfined male dog in an area where there is access to any unsprayed female dog in season;

8. Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City Treasurer. The Director of Environmental Services The Chief of Police or designee shall have the authority to establish appropriate licensing fees for such animals.

9. Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas.

10. Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection, in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;

11. Own, keep, or harbor, sell or offer for sale, barter or give away any animal whose possession is prohibited by federal or state law; or any exotic animal as defined in by this title. This section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting of fur salable into an existing market, such as chinchillas, nutria and mink; nonpoisonous amphibians and reptiles, not including pythons, anacondas, boa constrictors, monitor lizards, iguanas, alligators, caiman, crocodiles and turtles. This section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

12. Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

(i) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.

(ii) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

(iii) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

13. Permit or allow any animal to be a public nuisance.

14. Own, keep or harbor more animals than is permitted by the requirements of this title.

(f) Health Officers Animal Control Officers and other law enforcement officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to appear in municipal court to answer the offense charged. To effect legal relief, persons affected directly may sign a complaint at the Department of Environmental Services Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

SECTION 7. Section 6.04.045 of Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.045. Dangerous dog--Determination--Notice and hearing--Confinement or destruction.

a) The Health Officer Supervisor of Animal Control may declare a dog to be dangerous based on:

1. The nature of any attack committed or wound inflicted by the animal;
 2. The past history and seriousness of any attacks or wounds inflicted by the animal;
 3. The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
 4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water.
- If the Health Officer Supervisor of Animal Control determines that the animal is dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this chapter. The Health Officer Supervisor of Animal Control may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail

shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Health Officer Supervisor of Animal Control or designee shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the Health Officer Supervisor of Animal Control within ten days of receipt of such notification.

(b) The Health Officer Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog, the Health Officer Animal Control Officers or staff of Animal Control, victims of any bite or attack, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. In making a determination, the Health Officer Chief of Police or designee shall consider the factors listed in subsections (1) through (4) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

1. The dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or
2. The threat, injury, or damage was sustained by a person:
 - (i) Who was committing, at the time, a criminal trespass or other tort upon the premises lawfully occupied by the owner of the dog; or
 - (ii) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
 - (iii) Who was committing or attempting to commit a crime; or
3. The dog was responding to pain or injury.

If the Health Officer Chief of Police or designee determines that the dog is dangerous, he or she shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter, and will notify the owner in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. During the appeal process, the owner, keeper or harbinger of such animal shall be responsible for the cost of keeping such animal in the Animal Shelter. The owner, keeper or harbinger of such animal can file a renewable, non-refundable, cash or performance bond with the Animal Shelter where the animal is being held, within the 10 day appeal period, in an amount equal the cost of care and treatment of the animal for thirty (30) days. Said cash or performance bond shall be renewable for an additional thirty (30) days and each successive thirty (30) days the animal is held by Animal Services during the pendency of the appeal. Payment of said renewal shall be within 5 days of the running of the previous thirty (30) day period. If said cash or performance bond, or its renewal, is not tendered to the Animal Shelter within the time specified above, then the Health Officer Animal Control shall have immediate ownership of such animal and the Supervisor of Animal Control shall determine the disposition of such animal. Absent such appeal, the Health Officer Supervisor of Animal Control or designee may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046

SECTION 8. Section 6.04.046 of the Code of the City of Wichita, Kansas is amended to

read as follows:

Sec. 6.04.046. Dangerous dog--Failure to confine--Destruction and defenses.

(a) It is unlawful for an owner, keeper or harbinger of a dangerous dog to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner, keeper or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(b) Secure or approved enclosures required under this section must be approved by the Health Officer Supervisor of Animal Control or designee and be adequately lighted and kept in a clean and sanitary condition.

(c) The owner, keeper or harbinger shall allow the Health Officer access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

(d) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of the dangerous animal determination, at his or her own expense. For any animal required to be surgically sterilized, the Health Officer Supervisor of Animal Control or designee shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure as required by this section shall be deemed guilty of a misdemeanor.

(e) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the Health Officer. Supervisor of Animal Control. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(f) It is unlawful for anyone having prior felony convictions defined in articles 34, 35, 36, and 43 of Chapter 21, and article 41 of Chapter 65 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dangerous dog.

(g) It shall be unlawful for any person to:

(1) harbor, keep or maintain a dangerous dog on property not owned by the person without the written consent of the land owner; or

(2) sell, barter or give away to another person a dog which has been deemed dangerous; or

(3) own, keep or harbor more than two dogs which have been declared dangerous by this title.

(h) Should a previously determined dangerous dog be found running at large in violation of this section attack or inflict injury upon any person, the judge of the Municipal Court shall, in addition to any other penalty provided in Section 6.04.190, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a criminal trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime.

SECTION 9. Section 6.04.047 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.047 Signs required.

Upon determination by the Health Officer Supervisor of Animal Control, the owner of a dangerous dog shall display in a prominent place at the entrance to his or her premises a clearly visible warning sign indicating there is a dangerous dog on the premises. A similar sign is required to be posted on the secure enclosure in which the animal is harbored.

SECTION 10. Section 6.04.048 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.048. Registration and insurance.

(a) The owner, keeper or person harboring a dangerous dog shall annually register the dangerous dog with the Health Officer City of Wichita on such forms designated by the Health Officer Chief of Police or designee, and shall have a microchip, traceable to the current owner of the dog, inserted into the dog. The owner, keeper or harbinger shall complete an application and shall pay a \$100.00 annual registration fee to the City of Wichita and shall pay all costs associated with the microchip procedure. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

The owner, keeper or person harboring a dangerous dog shall notify the Health Officer City of Wichita in writing a minimum of seven days prior to any change in the address of the owner, keeper or person harboring the dog or the location of the dangerous dog. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(b) The owner, keeper or person harboring a dangerous dog required to be registered under this Section may be required to maintain liability insurance in the amount of one hundred thousand dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog shall file with the Health Officer City of Wichita a certificate of insurance reflecting the required

minimum insurance. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

SECTION 11. Section 6.04.050 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.050 Interference with the duty of Health Officer an Animal Control Officer.
It is unlawful for any person to:

- (a) Refuse to identify himself or herself and provide verification of his or her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by the Health Officer Animal Control Officer, when the Health Officer Animal Control Officer has probable cause to believe that this person has violated a section of this chapter;
- (b) Interfere with, molest, injure or prevent the Health Officer Animal Control Officer in the lawful discharge of his or her duties as herein prescribed, including interference when removing animals from private property and/or when investigating animal concerns.
- (c) Provide false or misleading information to the Health Officer Animal Control Officer when retrieving or claiming an animal from the shelter.
- (d) Knowingly provide false or misleading information to the Health Officer Animal Control Officer during the course of the Health Officer's Animal Control Officer's investigation into possible violations of this chapter or while performing the lawful discharge of the officer's duties.

SECTION 12. Section 6.04.052 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.052. Restrictions on the ownership of Pit Bulls.

- (a) All adult pit bulls within the City of Wichita are required to have an identification microchip implanted in the dog traceable to the current owner and registered with the City of Wichita. Such microchip information shall be included in the dog's annual license application with the City of Wichita. The owner, keeper or harbinger shall pay all costs associated with the microchip procedure.
- (b) It shall be unlawful for any person to own, keep or harbor an adult unaltered pit bull, unless such person is licensed as a dog breeder pursuant to Section 6.04.155. No licensed dog breeder shall own, keep or harbor more than two unaltered adult pit bulls. Such dogs must be micro-chipped as required by this title. The provisions of this section shall not apply to any unaltered pit bull which was located within the City of Wichita as of July 1, 2009, and such dog was being utilized as: (1) a service dog to accommodate an individual with a disability recognized by the Americans with Disabilities Act, or (2) a show dog which has been certified to have been shown in a qualified show by December 31, 2009. No person shall own more than two such service dogs or show dogs, unless otherwise exempted in this title. Any person who owns such a show dog shall be required by March 31, 2010 to obtain a waiver from the Health Officer Chief of

Police or designee in order to retain the unaltered status of the pit bull. Such waiver shall be renewed on an annual basis under the guidelines specified by the Health Officer Chief of Police or designee and shall cost the sum of \$50.00 per waiver per year. Waivers can be revoked by the Health Officer Chief of Police or designee pursuant to the provisions of 6.04.157. Any such service dog or show dog must be micro-chipped as required by this title. Sterilization of a pit bull described in this section, shall not be required upon certification, presented to the Director of Environmental Services Supervisor of Animal Control, by a veterinarian licensed by the state of Kansas, that such sterilization would be injurious to such dog due to its health or age.

(c) It shall be unlawful for any person to own, keep or harbor more than two pit bulls unless otherwise exempted in this title.

(d) It shall be unlawful for more than two adult pit bulls, to be owned, kept, or harbored on the same premises or dwelling.

(e) Any person who owns a pit bull, as of July 1, 2009, shall have six months thereafter, to microchip and surgically sterilize such animal or apply for a breeder's license pursuant to this title, unless exempted under section (b) above. Sterilization of the pit bull shall not be required upon certification, presented to the Director of Environmental Services Supervisor of Animal Control, by a veterinarian licensed by the State of Kansas that such sterilization would be injurious to such dog due to its health or age.

(f) Any person who had a current animal maintenance permit or variance for three or more pit bulls, at the time of passage of the ordinance shall be permitted to keep, but not replace such dogs until their number equals no more than two dogs. Such dogs must be registered, micro-chipped and surgically sterilized in accordance with this title, unless otherwise exempted within this title.

(g) Any person aggrieved by the determination of the Health Officer Chief of Police or designee that a dog is a pit bull as defined by Section 6.04.010 of this title, shall have the right to appeal such determination as set forth in Section 6.04.158.

(h) The provisions of this section shall not apply to dogs which are temporarily located within the City of Wichita for participation in dog shows which are sanctioned by the American Kennel Club, United Kennel Club, the Wichita Kennel Club or the American Dog Breeders Association., or unless otherwise recognized by the Health Officer Chief of Police or designee.

(i) Any individual who fails to comply with the requirements of this section shall be guilty of a misdemeanor.

SECTION 13. Section 6.04.070 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.070. Procedures on retention, observation and disposition of animals which have bitten persons or other animals.

- (a) The owner of any animal, which has been determined by the Health Officer Supervisor of Animal Control to have bitten a person or another animal shall confine the animal as directed by the Health Officer Supervisor of Animal Control or surrender such animal to the Health Officer Animal Shelter for rabies observation. The owner, keeper or harborer shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal. Any costs

and/or additional fees assessed by the Health Officer Chief of Police or designee shall be paid by the owner, keeper or harbinger prior to the dog's release.

SECTION 14. Section 6.04.080 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.080 Known rabid animal.

In a case of rabies exposure to domestic animals, such as, but not limited to dogs or cats, when such animal is known to be rabid or has been bitten by a rabid animal or an animal that can be assumed to be rabid using Kansas State Rabies Guidelines, the Health Officer Supervisor of Animal Control may order such animal to be destroyed or confined for a period and in a manner recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians in a veterinary hospital, animal-care facility, or as specified by the Health Officer Supervisor of Animal Control. In the case of domestic animals unvaccinated against rabies, the Health Officer Supervisor of Animal Control may require post-exposure prophylaxis and one hundred eighty-day confinement of such animals that have been exposed to a known rabid animal at a veterinary hospital, an animal-care facility, or as specified by the Health Officer Supervisor of Animal Control and recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians. The owner shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal, and including fees for post exposure prophylaxis and for any required testing done on the animal. The owner of any animal that is required to be tested for rabies, or any person that requests any animal to be tested, shall be responsible for paying all costs associated with the testing.

SECTION 15. Section 6.04.090 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.090 Failure to confine biting animals.

It is unlawful for any person to fail to confine, fail to keep confined, or permit to run at large, any animal which has been ordered confined by the Health Officer Supervisor of Animal Control for rabies observation or quarantine.

SECTION 16. Section 6.04.100 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.100 Injured animal.

The owner of an injured animal taken to a veterinarian by the Health Officer or his designated agent Supervisor of Animal Control or his or her designee is responsible for the payment of charges for veterinarian services related thereto. The owner shall reimburse the Health Officer Animal Shelter for all expenditures the Health Officer Supervisor of Animal Control may cause to be paid may pay for veterinary services rendered to the owner's animal under this section.

SECTION 17. Section 6.04.110 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.110. Procedure on registration, vaccination certificate and issuance of a license to keep a dog; vaccination requirements for cats and ferrets.

(a) The owner or harbinger of a dog over five months old is required to annually register such dog with the City Treasurer, and to make application for and obtain a license to keep such dog as herein provided. Said license shall be valid for a period not to exceed twelve months. So long as animals are not maintained for a period exceeding one hundred and eighty days, animals maintained in foster care or with a rescue organization, as defined in this title, shall not be required to be licensed until adopted or permanently placed. All dogs placed in foster care or with a rescue organization must be properly vaccinated within seven days of being placed in such foster care or rescue organization.

(b) The owner or harbinger of a dog, cat or ferret over five months old is required to have such dog cat, or ferret inoculated as set forth below:

1. Inoculation must be performed by a person licensed to practice veterinary medicine in the State of Kansas.
2. Inoculation must be with a prophylactic vaccine approved by the United States Department of Agriculture and listed in the current National Association of State and Public Health Veterinarian's Compendium of Rabies Control.
3. Annually, a veterinarian must certify to the City Treasurer, on forms provided by the Treasurer, that such dog has been properly vaccinated in accordance with the current compendium of rabies control. Annually, a new vaccination tag shall be assigned to such dog.
4. Unless a licensed veterinarian certifies to the Director of Environmental Services Supervisor of Animal Control that such vaccination would be injurious to such dog due to its age or health, all dogs or cats must be vaccinated for rabies by a licensed veterinarian at least every three years. Ferrets must be vaccinated for rabies annually.

(c) The City Treasurer, in consultation with the Health Officer Chief of Police or designee, shall provide suitable forms to veterinarians practicing in metropolitan Wichita for the licensing and rabies vaccination of such dogs. Such forms are to be designed to receive information on the dog's name, breed, and description, date, of rabies vaccination, veterinary tag number, microchip number, information whether the dog is spayed or neutered, whether a fenced yard or fenced run is available for confinement of the dog, and owner's name, address and telephone number. The veterinarian shall certify that the dog is properly vaccinated for rabies, or that it is injurious to the dog's health to receive such vaccination due to its age or health. Such forms will serve as the vaccination certificate, the application to keep a dog, and the actual license when validated. The forms are to be completed by the veterinarian at the time of vaccination and distributed as

follows: one copy - city treasurer, one copy - veterinarian; and one copy - dog owner. The dog owner has the opportunity to make payment for the license fee at the veterinarian's office. However, the dog owner may elect to remit the license fee at the city treasurer's office, in which case the form shall be validated by an appropriate City Treasurer stamp. If the license fee payment is submitted to the veterinarian, all form copies shall be validated with a numbered City of Wichita stamp which shall be supplied by the City Treasurer. The veterinarian shall retain his or her copy for two three years for his or her own use and for possible reference use by the City Treasurer. The City Treasurer shall provide postage-guarantee addressed envelopes to veterinarians for their use in facilitating payment of license fees to the city. All such license fees collected by veterinarians shall be submitted to the City Treasurer not later than thirty days following the last day of the month in which the license fee was collected.

(d) The premises of the dog owners shall be available for inspection by the Health Officer Supervisor of Animal Control or designee to insure a fenced yard or fenced run is available that can adequately confine the dog, if so stated in the license application, and to insure that such animals are maintained on premises which are sanitary.

(e) The owner of a dog will provide, upon request of the Health Officer Supervisor of Animal Control or designee, proof of current licensure and vaccination.

(f) The owner of a cat or ferret will provide, upon request from the Health Officer Supervisor of Animal Control or designee, proof of current vaccination.

SECTION 18. Section 6.04.140 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.140. Vaccination and identification tags.

(a) The veterinarian administering the rabies vaccination shall issue a metallic tag for the particular dog vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic's name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination or rabies certification for such animal. A new vaccination tag shall be issued in accordance with the procedures established in 6.04.110. The owner of any dog which is determined by the Health Officer Supervisor of Animal Control or designee to be running at large while not wearing a collar with identification consisting of the owner's name and current address, or if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

SECTION 19. Section 6.04.155 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.155. Dog breeder license; breeder inspections.

(a) No person shall be a dog breeder, as defined by Section 6.04.010, unless such person is properly licensed by the City of Wichita as a breeder.

(b) All dog breeders, shall make an application for, and obtain an annual dog breeder's license as established and described by this section.

1. An application for a breeder's license shall be obtained from the City Treasurer's Office, Environmental Services, Animal Services or the City of Wichita's website. The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all dogs owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of the animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether there is a fenced yard or fenced run available for the confinement of the dogs.
- h. A statement as to whether the applicant has ever had a license suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
- i. The zoning classification for the premises where the animals will be maintained.
- j. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

2. The Health Officer Chief of Police or designee is empowered to establish administrative requirements for obtaining dog breeder licenses. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer, or the City website.

(c) Approval of dog breeder licenses shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer Chief of Police or designee including, but not limited to, proper veterinary care, health certification of breeding stock and offspring, and compliance with all applicable requirements, and/or regulations of the City of Wichita and the State of Kansas.

(d) The Health Officer Chief of Police or designee may refuse to approve issuance or renewal of, or revoke, a breeder's license for one or more of the following conditions:

1. Failure of the applicant to provide proof that the animals are properly licensed and vaccinated;
2. The making of any false statement as to any material matter in the application for a license, or a license renewal, or in a hearing concerning the license;
3. Violation by the applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals;
4. Suspension or revocation of a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act; or
5. The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

(e) No breeder's license shall be approved or renewed for premises zoned residential by the Wichita/Sedgwick County Unified Zoning Code.

(f) No breeder's license shall be approved for an individual who owns more than two unaltered pit bulls, unless otherwise exempted within this title. If the Health Officer Chief of Police or designee refuses to issue or renew a license under this section, such individual shall have the appeal rights established by Section 6.04.158.

(g) The fee for a breeder license is established at fifty dollars annually. Such licenses shall expire one year from the date of issue. The City Treasurer shall impose a penalty of fifty dollars annually on all delinquent license renewals beginning thirty days following the expiration of the previous license. Failure by a person to obtain a breeder license as required by this section shall constitute a misdemeanor. Conviction of two or more violations of this code within a two-year period may result in revocation of the breeders' license. The individual shall be precluded from obtaining a breeder's license for a period of twenty-four (24) months following the revocation.

(h) All places and premises by licensed breeders or persons seeking approval for a breeder license as described by this chapter shall be open during reasonable hours for inspection by the Health Officer Animal Control in order to ensure the health, safety, and welfare of the animals on said property. If upon such an inspection by the Health Officer Animal Control any person who has been granted or applied for a license is found violating any of the regulations prescribed in this chapter, or any provisions within the Unified Zoning Code, or any administrative regulation established by the Health Officer, Chief of Police or designee such person shall be given a written notice of such violation. If such violation or violations of this code do not or cannot cease within twenty-four hours of such notification, the permit, or license may be revoked or canceled by action of the Health Officer Chief of Police or designee, pursuant to the procedures set forth in Section 6.04.159 of this code.

(i) It shall be unlawful for any breeder of pit bulls, as defined by this title, to engage in the breeding of such animals with an owner, keeper or harbinger of a pit bull involved in the breeding process who is not also licensed as a breeder.

(j) Upon a first conviction of a violation of the provisions of this section, a minimum fine of \$100.00 shall be imposed. Upon a second or subsequent conviction, of a violation of the provisions of this section, a minimum fine of \$250.00 shall be imposed. In addition, the Municipal Court Judge may impose a term of imprisonment not to exceed six months and/or a fine not to exceed one thousand dollars.

SECTION 20. Section 6.04.157 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.157. Maximum number of dogs and cats and maintaining livestock.

(a) No person shall own, keep or harbor upon any premises or property, or in any dwelling of any type within the city:

1. Livestock;
2. More than two dogs;
3. More than two cats;
4. More than two rabbits;
5. More than three fowl; or
6. More than three pigeons;

unless such person has a current Animal Maintenance Permit or variance issued by the Health Officer Chief of Police or designee authorizing the maintenance of such animals. The provisions of this section shall not apply to common carriers transporting domestic animals to or through the City. Permits shall not be required for indoor non-commercial maintenance of fish, nonpoisonous amphibians and reptiles allowed by Section 6.04.040, birds and small rodents. Any

individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

(b) No person shall keep, own, or harbor upon any premises or property or in any dwelling of any type within the city, more than three different kinds of domestic animals or livestock unless such person has a current animal maintenance permit or variance issued by the Health Officer Chief of Police or designee authorizing the maintenance of such animals. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

1. Any person, rescue organization or foster care home, who desires to own, keep, or harbor livestock, or more than two dogs or more than two cats or more than two rabbits, or more than three fowl or pigeons, shall apply the City of Wichita for an 'animal maintenance permit' that shall permit the applicant to own, keep or harbor the animals specifically allowed in that permit.

2. Any person, rescue organization or foster care home, who desires to own, keep or harbor more than three different kinds of domestic animals shall apply with the City of Wichita for an animal maintenance permit that shall permit the applicant to own, keep or harbor more than three different kinds of domestic animals.

TABLE 1:

TABLE INSET:

KIND OF ANIMAL	MINIMUM REQUIRED FOR PERMIT	MAXIMUM ALLOWED WITH PERMIT	PERMIT FEE
Dogs, excluding pit bulls	3	4	\$25.00
Cats	3	4	\$25.00
Fowl	4	12 (25 pigeons)	\$25.00
Sheep	1	One animal per acre	\$100.00
Goats--(Nannies only)	1	One animal per acre	\$100.00
Horses	1	One animal per acre	\$100.00
Cattle	1	One animal per acre	\$100.00
Ratites	1	One animal per acre	\$100.00
Pig--Neutered, miniature Vietnamese Pot-Bellied	1	1	\$25.00
Rabbits	4	12	\$25.00
Other	3	(25 fur-bearing animals, i.e. chinchilla, mink)	\$100.00

Owning more than three kinds of animals, regardless of number of animals, requires the owner to obtain an Animal Maintenance Permit. Any combination of permit fees will not exceed \$100.00 per application. If a permit application is denied, 50% of the proposed permit fee will be retained for the administrative costs incurred.

3. It is unlawful for any person to own, harbor or maintain more animals or different types animals than is allowed by the Animal Maintenance Permit issued to such person by the Health Officer, Chief of Police or designee.
4. The Health Officer, Chief of Police or designee is empowered to establish administrative requirements for obtaining an Animal Maintenance Permit. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer or the City website.

The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all animals owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of these animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether the animals are spayed or neutered and whether there is a fenced yard or fenced run available for the confinement of the animals.
- h. The size of the premises in which the animals may be maintained.
- i. A diagram of the location of any and all domestic animal structures in which animals will be maintained.
- j. A signed statement on behalf of the applicant that maintenance of the animals will be in compliance with the animal control and sanitary waste requirements of the City of Wichita.
- k. A statement by the applicant that the zoning requirements of the Unified Zoning Code of the City of Wichita and Sedgwick County will be complied with.
- l. A statement as to whether the applicant has ever had a license suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
- m. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

5. Approval of an Animal Maintenance Permit shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer, Chief of Police or designee, the provisions of this title and the rules and regulations of the City of Wichita and the State of Kansas. Such applicant must show:

- a. that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
 - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
 - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
 - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
 - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.

6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.

7) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

8) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

b. The Health Officer Chief of Police or designee may deny any application where any one or more of the following conditions exist:

1) The applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant;

2) An investigation by Animal Services reveals that the applicant has failed to meet the requirements of this section.

3) The applicant made a false statement as to any material matter in the application for a license of a license renewal, or in a hearing concerning the license.

4) Violation by the licensee or applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals.

5) If the applicant has had a breeder's license or animal maintenance permit revoked within eighteen (18) months prior to the application.

6) If the applicant has had a license issued by the Kansas Department of Animal Health suspended or revoked within eighteen (18) months prior to the application.

7) Maintenance of the animals would be in violation of the Unified Zoning Code of the City of Wichita.

8) No Animal Maintenance Permit shall be issued to own, keep, or harbor more than two adult pit bull dogs.

9) The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

c. The Health Officer Chief of Police or designee shall state, in writing, the factual basis for his or her recommendation to grant or deny any application. The Health Officer Chief of Police or designee shall consider past violations, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.

The permit shall be issued for the period not to exceed twelve (12) months.

d. The fee for such Animal Maintenance Permit shall be paid in accordance with Table 1 of Subsection (b)(2). All fees shall be nonrefundable and nontransferable. The Animal Maintenance

Permit shall be issued for the individual animals listed on the application and shall not be transferable to other animals. The fact an individual has previously been issued an animal maintenance permit may be considered but shall not be controlling to the Health Officer's Chief of Police or designee's decision to issue animal maintenance permit for a different animal. The denial of any Animal Maintenance Permit shall be subject to the appeal procedures set forth in Section 16.04.158.

e. Any applicant who had more than two cats or more than two dogs or livestock prior to annexation of their property by the City, shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

f. Any individual who had a current Animal Maintenance Permit or variance at the time of passage of this ordinance shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

g. Any individual who had a current Animal Maintenance Permit or variance for livestock at the time of passage of this ordinance shall be permitted to keep but not replace said animals. Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

h. For the purposes of this section:

1) *Nuisance* for the purposes of this section, shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.

2) *Humane standards of care* shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.

3) *Livestock* includes, but is not limited to: horses, mules, cattle, sheep, llamas, ratites and goats.

i. Not more than one head of livestock shall be kept for each one acre of contiguous unbuilt land area, provided that the limitation shall not apply to a commercial riding stable, a riding academy, or a commercial stockyard with an approved manure disposal plan.

j. Owners of livestock within the City without an Animal Maintenance Permit or variance on the date of the passage of this ordinance shall be allowed twelve months from the date of adoption to come into compliance with the acreage requirements set forth in subsection (1).

k. Owners of livestock within the City with a current Animal Maintenance Permit or variance at the date of the adoption of the ordinance shall be permitted to keep, but not replace said animals.

l. All owners or harborers of livestock must comply with the provisions of Section 6.04.173 regarding the maintenance of all domestic animal structures.

- m. The holder of an Animal Maintenance Permit will provide, upon request of the Health Officer Supervisor of Animal Control or designee proof of licensure where applicable, and vaccination of any animals subject to the Animal Maintenance Permit.
 - n. The premises designated in the animal maintenance permit shall be available for inspection by the Health Officer to ensure compliance with the provisions of this code and the laws of the State of Kansas.
 - o. The holder of an animal maintenance permit will notify the Health Officer City of Wichita if any of the animals subject to the animal maintenance permit is no longer owned by the individual. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.
6. Variances. Any application for a variance to own, keep, or harbor more than four (4) dogs or four (4) cats or any combination thereof in excess of four (4) or for a variance to the requirements of this chapter based on physical or geographical features of the site, or required acreage for livestock, may be granted by the Director of Environmental Services Chief of Police or designee if he or she determines that the variance will not adversely affect public health and safety or the environment, pose a threat to the environment or constitute a nuisance to neighbors.
- a. The applicant shall complete an application form and pay all applicable fees for an animal maintenance variance. Such application shall include the information set forth in the application for an Animal Maintenance Permit. In addition to the fees set forth in Subsection (b)(2), the applicant shall pay an initial inspection fee of \$50.00 to the City of Wichita. No inspection fee shall be assessed for subsequent renewals of any variance.
 - b. In making the determination as to whether the variance request should be granted, the Director of Environmental Services Chief of Police or designee shall rely on the criteria set forth in subsection (4) of this section.
 - c. The Director Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the Director of Environmental Services Chief of Police or designee relative to waivers may appeal to the City Council within ten days of the notice of such decision pursuant to Section 6.04.210 of this Code.

SECTION 21. Section 6.04.158 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.158. Appeal from denial of breeder's license, animal maintenance permit, or determination that dog is a Pit Bull.

- (a) If the Health Officer Chief of Police or designee has determined that an applicant is not eligible for a Breeder's License or Animal Maintenance Permit, he or she will make an appropriate determination based on the known facts and consistent with the provisions of this title.
- (b) The Health Officer Chief of Police or designee shall notify the individual of the denial in writing, stating the reasons for the denial of such application. Service of the notice shall be by certified mail, return receipt requested. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope.

- (c) The applicant of a denied application or the owner of a dog deemed to be a pit bull may request an administrative review of the determination by filing a written request with the Health Officer Chief of Police or designee within ten days of receipt of such notification.
- (d) The Health Officer Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog(s) or animals, the Health Officer, Animal Control Officers and/or staff of Animal Control, neighbors, or other affected persons, and veterinarians concerning the lineage of the dog, or the care and maintenance of the dog.
- (e) The Health Officer Chief of Police or designee shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter and will notify the applicant in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided in Section 6.04.210 of this Code.

SECTION 22. Section 6.04.159 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.159. Revocation or suspension of license or permit.

- (a) The Health Officer Chief of Police or designee, upon written notice to the licensee or permit holder, shall have the authority to suspend or revoke any permit, license or variance granted by the Health Officer or the Director of Environmental Services Chief of Police or designee for one or more of the following reasons:
 - (1) Violation by the licensee or permit holder of the provisions of this title, the Kansas Pet Animal Act, or other state or federal laws relating to the care and maintenance of animals.
 - (2) Obtaining the license or permit by fraudulent conduct, false statements or has otherwise made a material misrepresentation of fact in the application.
 - (3) Upon inspection, the Health Officer Supervisor of Animal Control or designee observes premises which are not in a clean and sanitary condition in compliance with the health standards set forth in this title.
 - (4) The licensee or permit holder has violated any terms or conditions of the license, permit or variance.
 - (5) The animal's place of keeping constitutes a nuisance to the surrounding neighbors;
 - (6) Humane standards of care are not being met by the permittee;
 - (7) A violation of Unified Zoning Code has occurred;
 - (8) The licensee or permit holder had provided false information in their application.
 - (9) The licensee or permit holder has had a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act or any other governmental agency related to the care of animals suspended or revoked.
 - (10) The licensee or permit holder cannot be contacted for an inspection within two weeks of an initial request for an inspection of such premises or the licensee or permit holder refuses the animal control officer access for an inspection.
- (b) Individuals aggrieved by the suspension or revocation of any permit, license or variance may appeal to the City Council within ten days of the notice of such decision as set forth in Section 6.04.210 of this code.

- (c) An appeal taken from an order of suspension or revocation shall not suspend the order of suspension or revocation during the pendency of such appeal.
- (d) For the purposes of subsection (a) above, written notice shall be deemed sufficient upon the mailing of the notice to the applicant for the permit or license on file in the Office of the City Treasurer.

SECTION 23. Section 6.04.160 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.160 Authorization for quarantine.

The Health Officer Chief of Police or designee shall advise the City Manager, who shall report to the Mayor in the event a potential outbreak of rabies is suspected in the dog or cat population in the city. If the Mayor concurs with the Health Officer Chief of Police or designee that the danger of the public safety from rabid animals is reasonably imminent, the Mayor is hereby authorized and it shall be his or her duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the same and/or confine it as provided in this chapter for such time as may be specified in such quarantine proclamation. Upon the issuance of such proclamation by the Mayor, any dogs, cats or other animals capable of transmitting rabies found running at large during the time specified by the Mayor in his quarantine proclamation may be killed by any officer of the city under procedures established by the Health Officer Chief of Police or designee.

SECTION 24. Section 6.04.170 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.170. Dog and cat census.

Whenever deemed necessary, the Health Officer Chief of Police or designee may conduct a dog and cat census of any or all areas of the city as needed to insure that all dogs over five months old harbored in the city are vaccinated and licensed and that all cats over five months old harbored in the city are properly vaccinated.

SECTION 25. Section 6.04.172 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.172. Swine and goat maintenance.

(a) Except as provided in subsection (b) of this section, it is unlawful for any person to keep or maintain any swine or male goats within the corporate limits of the city, except for stockyards or packing house operations, special scientific operations in industrial areas or activities in conjunction with livestock shows. Other industrial or agricultural maintenance of swine may be approved, if the industrial or agricultural premises is located five hundred or more feet from any

residentially zoned lot as defined by the Unified Zoning Code. This distance requirement may be waived by the Director of Environmental Services Chief of Police or designee.

(b) Registered purebred miniature Vietnamese potbelly pigs and other similar registered purebred miniature pigs may be kept within the city limits, subject to the conditions stated in subsections (c) and (d) of this section.

(c) It is unlawful for any person to maintain a registered purebred miniature pig which:

- (1) Weighs more than eighty pounds;
- (2) Is not spayed or neutered upon reaching maturity;
- (3) Has not undergone a blood test to show the animal is free from pseudo rabies; or
- (4) Is maintained as a food source.

(d) It is unlawful for any person to:

- (1) Keep a registered purebred miniature pig without a current animal maintenance permit as required by Section 6.04.157 of the Code of the City of Wichita;
- (2) Maintain more than one registered purebred miniature pig on any licensed premises.

SECTION 26. Section 6.04.173 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.173. Domestic animal structures and enclosures.

(a) Domestic animal structures used for livestock and livestock feeding and watering troughs shall not be less than two hundred feet from any adjacent dwelling and not less than twenty feet from any property line.

(b) Stables, coops, pens and other structures for the housing of animals shall comply with all zoning requirements of the City of Wichita-Sedgwick County Unified Zoning Code.

(c) The Director of Environmental Services Chief of Police or designee will evaluate properties and may issue waivers of distance and setback requirements for domestic animal structures where such waivers do not adversely affect public health and safety, pose a threat to the environment or constitute a nuisance to neighbors. Criteria for review for such variance will include, in addition to site-specific requirements, the following requirements:

- (1) That the animals will be kept or maintained at all times in a safe and sanitary manner;
- (2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition;
- (3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement;
- (4) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property;
- (5) That the keeping of such animals will not harm the surrounding neighborhood or unreasonably disturb the peace and quiet of the surrounding neighborhood;
- (6) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;

- (7) That the animals will not repeatedly run or be found at large, will not damage property or deposit excretory matter upon the property of anyone other than their owner;
 - (8) That the animals will not make disturbing noises, i.e., continued and repeated or untimely howling, barking, whining or other similar utterances causing unreasonable annoyance, disturbance or discomfort to neighbors where the animals are kept or harbored, or otherwise be unreasonably offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping;
 - (9) That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable city, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- (e) In considering waivers for Domestic Animal Structures, the Director of Environmental Services Chief of Police or designee will consider:
- (1) Specific location of the animal structure or enclosure on the property in question;
 - (2) The size of the lot and distance of the structure or enclosure to adjacent property lines and dwellings;
 - (3) Structures located on or uses made of the adjacent property and the likelihood that a waiver would adversely affect the use of the adjacent property;
 - (4) Type and number of animals to be maintained and the potential for creation of a nuisance;
 - (5) Any history of complaints and violations concerning the permit holder's compliance with this code or violations of local, state or federal law;
 - (6) Any comments of neighbors; and
 - (7) Any other available information concerning the potential for creation of a nuisance.

The Director Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the Director of Environmental Services Chief of Police or designee relative to waivers may appeal to the City Council within ten days' of notice of such decision as set forth in Section 6.04.210 of this Code.

SECTION 27. Section 6.04.175 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.175. Health standards--Minimum listed.

That the following minimum environmental health standards shall be observed and followed by persons subject to the terms of this title:

- (a) All domestic animal structures shall be cleaned at least once each week or as often as necessary to prevent or control odors, fly breeding and rodent infestation; provided, however, that this shall not apply to grazing areas or to stockyards.
- (b) Domestic animal structures owned or operated by a stockyard shall be cleaned as often as is necessary, as determined by the Health Officer Supervisor of Animal Control or designee to control fly breeding or to control other conditions adversely affecting the public health.
- (c) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill or transfer station, fertilizer processing plant, by property dispersal on land used for

agricultural purposes or other method approved by the Health Officer Chief of Police or designee.

(d) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(e) Premises subject to the terms of this code shall be maintained free of rodent harborage.

(f) Use shall be made of effective chemical or other approved means for the control of rodents and flies.

(g) Use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(h) All domestic animal structures and fences shall be maintained in good repair.

(i) Enclosures, including fences, for livestock shall be constructed in a manner to prevent domestic animals from breaking out or causing hazard to persons or property.

(j) Garbage shall not be fed to fowl.

(k) Refuse shall be stored in a manner approved by the Health Officer Supervisor of Animal Control and disposed of at least once each week or as frequently as may be required by the health officer Supervisor of Animal Control.

(l) Wastes accumulated from the cleaning of domestic animal structures shall be stored in suitable containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(m) Barbed-wire fences and electrically charged fences shall not be permitted in residentially zoned districts except in situations where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(n) Holding lots, pens and floors of sheds and buildings where animals are held shall be surfaced with concrete or asphaltic materials and the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into water courses. Such drainage systems shall be subject to the approval of the Health Officer Supervisor of Animal Control. The Health Officer Supervisor of Animal Control may waive this standard for animal holding operations where such animal holding is longer than twenty-four hours or where dirt lots are more appropriate to the proper care of cattle, horses, sheep or other livestock.

(o) Wastes accumulated from the cleaning of domestic animal structures in commercial or industrial operations shall be stored on concrete slabs or on an area with an impermeable barrier as approved by the Health Officer Supervisor of Animal Control. All solid wastes shall be properly disposed of at least once each week or as often as necessary to prevent any associated nuisances, or as approved by the Health Officer Supervisor of Animal Control.

(p) Slaughter of animals is prohibited on residentially zoned lots or lots utilized for residential purposes. This prohibition shall not apply to processing of fish or game lawfully taken for individual consumption, nor shall it apply to the slaughter of animals as part of religious practices to be conducted on the property on which the slaughter occurs.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 28. Section 6.04.176 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.176. Pet shop, stables, kennel, commercial animal facilities, and animal "day care" regulations.

It shall be unlawful for any pet shop, rescue organization, animal foster care organization, commercial animal facility, groomer, breeder, kennel, stable or animal "day care" business to fail to:

- (a) Maintain and retain records for a two-year period on all animals maintained in such facility. Such records shall show breed, color, markings, sex and age; date received and source, including name and address of owner or previous owner; date and disposition of animal, including name and address of new owner if applicable; disease prevention and/or treatment and by whom. Such records shall be made available to the Health Officer Supervisor of Animal Control upon request for inspection;
- (b) Provide cages and pens constructed of nontoxic, easily cleanable, water-impervious materials if used for confining animals and shall keep such cages and pens clean and sanitary at all times;
- (c) Provide adequate space and ventilation to prevent overcrowding, odors, and minimize contagion;
- (d) Provide general environmental conditions including endoparasite and ectoparasite control, clean wholesome food and water, weather protection and clean and sanitary facilities so as to enhance the health and well-being of such animals.
- (e) Maintain a building temperature at a comfortable level. Maintain adequate ventilation by means of windows, doors, vents and fans.
- (f) Provide each animal with sufficient space to stand up, lie down and turn around in a natural position without touching the sides or top of the enclosure. If additional space is not provided, either indoor or outdoor, then this enclosure must provide an adequate exercise area.
- (g) All enclosures shall be kept clean and dry.
- (h) Provide food which is free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (i) Provide all animals with fresh water available at all times, except as part of a veterinary treatment regimen.
- (j) Provide veterinary care to maintain good health and general welfare.
- (k) Maintain the premises of such business, and any domestic animal structures on such premises, in a clean and sanitary condition in compliance with the health standards set forth in this chapter.
- (l) Comply with all provisions of the Unified Zoning Code.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 29. Section 6.04.210 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.210. Appeal from Health Officer Chief of Police or designee's rulings.

Unless otherwise specified, any person dissatisfied with any order or determination of the Health Officer Chief of Police or designee made under his or her authority pursuant to this chapter may appeal such order or determination to the City Council. An appeal shall be a de novo quasi-judicial proceeding from which further appeal may be taken to the district court. An appeal must be filed with the City Clerk no more than ten business days from the date of the written order appealed from. The City Council will hear the appeal no later than thirty days from the filing of such appeal.

SECTION 30. Section 6.04.215 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.215. Dogs prohibited in parks; exceptions.

Except as otherwise allowed for by this title, it is unlawful for any person to allow or permit any dog to run at large in any park or to permit any dog, with or without a leash, except for service dogs or dogs used by public law enforcement agencies and under the control of a law enforcement officer, to enter any public beach, wading area, pond, fountain, stream or designated children's play area. The Director of Parks and Recreation and the Director of Environmental Services Chief of Police or designee may ban dogs or other animals, or a specific dog or other animal from areas of any park where he or she determines the same to be a nuisance.

SECTION 31. Section 6.04.218 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.218. Designation of dog parks, off-leash areas; rules and regulations; penalties for offenses.

(a) Dogs may be allowed to run at large only in dog parks and off-leash areas as designated by the Wichita City Council. The designation of such parks and off-leash areas shall be made at the recommendation of the Director of Park and Recreation and the Director of Environmental Services. Chief of Police or designee.

(b) It shall be unlawful for any dog owner to violate any of the following regulations regarding the use of any City designated dog park or off-leash area in a park owned by the City of Wichita:

(1) All dogs that enter the park must be over five months of age, not in heat, and have a valid license and current rabies vaccination with an accompanying tag. The tag must be securely affixed to the dog's collar at all times.

(2) All dogs must be leashed when entering or leaving the park's fenced enclosures and owners must retain possession of the leash at all times when within the parks fenced enclosure.

(3) Owners must be at least 14 years of age and remain within the park's fenced enclosure and in control of all dogs under their care at all times when within the park. Owners are limited to 3 dogs per visit.

(4) Owners shall immediately pick up their dogs' excrement and deposit it in the designated receptacle.

(5) Aggressive, vicious or contagious dogs are prohibited from use of the park.

- (6) Owners shall immediately close and secure the gate upon entering or exiting the confines of the park's fenced enclosure.
- (7) Entrance within the park in violation of its posted hours or when closed is prohibited.
- (8) No animals, other than dogs, may be brought into the dog parks.
- (9) Dogs must never be left unattended. The dog owner must be in reasonable control of his or her dog(s) at all times and keep a leash available at all times.
- (10) Dogs may not be brought into the park if they are sick or unhealthy, have a history of aggressiveness, or have been adjudicated a dangerous dog.
- (11) No food or treats for human or animal consumption, rawhide chews, alcoholic beverages, glass containers, bicycles, skateboards, motorbikes, scooters, or roller blades will be allowed in the dog park area. Littering is prohibited. Smoking is prohibited inside the park and within ten feet of the park's parameter.
- (12) Dog owners must immediately fill any holes their dogs dig.
- (13) Professional dog trainers and behaviorists are not permitted to use the park to conduct their business.
- (14) All owners must have in his or her possession a baggy or some other form of equipment to clean up after his or her dog(s). All waste must be placed in a bag and placed in a waste receptacle provided at the park.
- (15) No large dogs (over 25 pounds) will be allowed in the small-dog areas of the dog park. Such areas will be clearly marked.
- (16) No small dogs (under 25 pounds) will be allowed in the large dog areas of the dog parks. Such areas will be clearly marked.
- (17) All dog bites must be reported to Animal Services. If a bite occurs, the dog's owner must exchange his or her name and phone number with the victim of the bite.
- (18) The City of Wichita, the Director of Parks and Recreation, and the Director of Environmental Services Chief of Police or designee reserve the right to close a dog park for maintenance and repair, public safety reasons or for special events.
- (c) It is unlawful for any person to:
 - (1) Enter or remain in a dog park at such time as such park is closed to the public as set out herein or at such time as provided for under the rules and regulations adopted by the Director of Environmental Services Chief of Police or designee and Director of Parks and Recreation.
 - (2) Fail to immediately leash and restrain a dog in the dog park when advised to do so by the Health Officer Animal Control Officer or the Director of Parks and Recreation or his or her designee.
 - (3) Fail to immediately leave the dog park when ordered to do so by a law enforcement officer, Health Officer Animal Control Officer or the Director of Parks and Recreation or his or her designee.
- (d)
 - (1) Owners assume all risks, loss or injury for themselves or their dog(s) associated with or resulting from the use of the park.
 - (2) Owners making use of the dog park shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any injuries or property damage shall hold the City of Wichita harmless for any such damage.
- (e) Enforcement of the above rules and regulations is under the immediate supervision of the Director of Environmental Services Chief of Police or designee and the Director of Parks and Recreation. Violators of dog park rules and regulations may be subject to one or more of the following:

- (1) Removal from the park;
- (2) Suspension of park privileges;
- (3) Issuance of a Uniform Criminal Complaint or Notice to Appear.
- (f) If an owner or individual is found guilty of violating the rules and regulations of a city-owned dog park or any other provisions of this section, such owner or individual shall be guilty of a misdemeanor.
- (g) The Director of Parks and Recreation and the Director of Environmental Services Chief of Police or designee shall promulgate additional regulations as are necessary to address health and safety concerns related to the operation of such parks. A copy of such regulations shall be available for inspection at Animal Services the Animal Shelter and the Office of the Director of Parks and Recreation during regular office hours.

SECTION 32. The originals of Sections 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215; and 6.04.218 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 33. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 24th day of May, 2011.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf